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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,539	05/04/2001	Stephen B. Heppe	000571.00030	6131

27557 7590 09/24/2004

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WASHINGTON, DC 20037

EXAMINER

NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/848,539	Applicant(s) HEPPE ET AL.	
	Examiner Phuoc H. Nguyen	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>May 29, 2002</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 rejected under 35 U.S.C. 102(e) as being anticipated by Leuca et al

(Hereafter, Leuca) U.S Patent 6,201,797.

3. Regarding claim 1, Leuca discloses a method for transitioning from a first data networking protocol using an air/ground network and a ground/ground network to a second data networking protocol using an end-to-end network (Figure 1), the method comprising: installing a new application gateway (See fig. 1, item 19 (NATS); col. 3, lines 45-57) on an aircraft (Figure 2, item 40), the new application gateway emulating said air/ground network as perceived by onboard equipment on the aircraft and providing an application gateway for said ground/ground network while also providing a link between the onboard equipment and the end-to-end network, allowing said air/ground network and ground/ground network to be bypassed in favor of said end-to-end network (See fig. 1; col. 2, lines 36-39; col. 3, lines 31-44; and col. 4, lines 27-45); and implementing a transition in first, second, and third stages, wherein the first stage uses the first air/ground network and ground/ground network, the second stage is a hybrid networking architecture wherein aeronautical air/ground data may be routed through the air/ground network and the ground/ground network or through the end-to-end network, and the third stage is a

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networking architecture characterized solely by use of the end-to-end network providing service from the aircraft to customer premises on the ground (Figures 1 and 2; col. 3, lines 31-44; col. 4, lines 27-45; col. 5, lines 29-47; and col. 5, last paragraph through col. 6, 1st paragraph).

4. Regarding claim 2, Leuca discloses connectivity to the air/ground network and ground/ground network is retained in the first, second and third stages in order to enhance service availability (col. 1, lines 41-65).

5. Regarding claim 3, Leuca discloses messages are routed preferentially over the first air/ground network and ground/ground network, or the second end-to-end network, based on policy guidelines specified by a customer (col. 3, lines 45-58; and col. 5, lines 29-47).

6. Regarding claim 4, Leuca discloses performing a store-and-forward technique, allowing delayed transmission of messages intended for the air/ground network via the end-to-end network, in order to reduce measured usage of the first air/ground network and ground/ground network (col. 4, lines 37-41).

7. Regarding claim 5, Leuca discloses converting the new application gateway to interoperate with selected existing onboard equipment (col. 2, lines 6-12; and col. 4, lines 27-41).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Leuca.

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Regarding claim 6, Leuca discloses installing application gateway and radio equipment on fleet aircraft allowing interoperation with either said first data networking architecture or said second data networking architecture (fig. 1; and col. 2, lines 36-39; col. 3, lines 31-57); demonstrating operationally that the said second data networking architecture achieves desired performance (Fig. 1; col. 2, last paragraph through col. 3, 1st paragraph); and adjusting policy guidelines for routing of traffic via said first data networking architecture or said second data networking architecture (col. 3, lines 45-58; and col. 5, lines 29-47); however, Leuca fails to teach removing unneeded equipment associated with said first data networking architecture.

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate a removing unneeded equipment associated with network feature to Leuca's invention to include this feature to reduce the network bottleneck when a data is passing to the unneeded device.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leuca et al U.S. Pat. No. 6,449,287 disclose short messaging method and system for airborne passengers.

Schmid et al U.S. Pat. No. 5,950,129 disclose two-way in-flight radio telecommunication system and method.

Muxlow et al U.S. Pat. No. 6,438,468 disclose systems and methods for delivering data updates to an aircraft.

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Bastian et al U.S. Pat. No. 6,757,712 disclose communications system for aircraft.

Nelson et al U.S. Pat. No. 6,760,778 disclose system and method for communication between airborne and ground-based entities.

Hogan et al U.S. Pat. No. 6,785,712 disclose airborne e-mail data transfer protocol.

Reifer et al U.S. Pat. No. 6,421,727 disclose internetworking system and method for a global telecommunications network.

Bettters et al U.S. Pat. No. 6,732,027 disclose system and method of analyzing operational source data.

Lundberg et al U.S. Pat. No. 6,760,757 disclose techniques for using a web based server provided in a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu (7AM-4: 30PM) and off every other Friday.

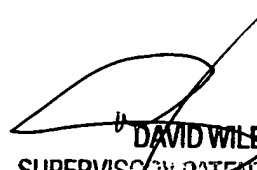
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H. Nguyen
Examiner
Art Unit 2143

September 8, 2004



DAVID WILEY
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 2100